



**INSTITUTE FOR LOCAL GOVERNMENT MANAGEMENT
OF SOUTH AFRICA**

4 Karen Street

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2191

03 August 2020

The Director- General
Department of Cooperative Governance
Private Bag
PRETORIA
0001

Dear Madam

RE: SUBMISSION BY ILGM ON PERMANENCY OF SECTION 56 (SENIOR MANAGERS) IN LOCAL GOVERNMENT.

The Institute for Local Government Management (ILGM) has done a research on permanency of Senior Managers and hereby makes a submission for the change of the relevant a legislation to provide for permanency of Senior Managers.

We hope this will be considered by the Department and the relevant Committee.

Regards

DR M.B. NGUBANE
CHAIRPERSON: RESEARCH AND PROFESSIONALISATION COMMITTEE (NEC MEMBER)

03/08/2020
DATE



MOTIVATION FOR PERMANENCY OF SENIOR MANAGERS IN LOCAL GOVERNMENT

1. INTRODUCTION

When the Local Government Municipal Systems Act of 1998 was amended in 2011, one of the objectives was to encourage municipalities to employ their Senior Managers permanently. The use of the words “may appoint senior managers permanently” were read as giving municipalities an option or discretion to either appoint them on contract or permanently. To this effect some municipalities appointed their Senior Managers permanently whilst others continued to employ them on contract. It is now proven that there is a need to appoint all of the Senior Managers permanently given the advantages brought about by permanency that are listed hereunder. It is important though to outline the benefits that have been or will be derived by municipalities as a result of employing their Senior Managers on contracts.

2. ADVANTAGES OF APPOINTING SENIOR MANAGERS ON CONTRACTS:

The following are the advantages of appointing Senior Managers on contracts and most of them have been observed throughout South African municipalities that have already appointed Senior Managers permanently:

- 2.1. Security of tenure which will improve performance since they will not be worried about end of contract.
- 2.2. Retention of highly experienced managers who have institutional memory.
- 2.3. Motivation and aspiration by middle management to apply for positions thus increasing chances of qualifying and suitably qualified employees.
- 2.4. Reduction of corruption since they will not be easily manipulated to do wrong things in exchange for the extension of contract.
- 2.5. Eliminating the high vacancy rate that results from disagreements in terms of who to deploy.
- 2.6. Filling of the high vacancy rate permanently especially of CFOs will improve audit outcomes.
- 2.7. There will be stability in terms of administration and general management of the municipality.

2.8. There will be more accountability and improved Consequence Management since SMs will take ownership of their directorates.

2.9. It will enhance continuity and improve long term visions of municipalities.

10. It will improve planning for and implementation of long-term infrastructure projects since there will be no interruption resulting from the change of senior managers.

2.11. Smaller municipalities will be able to attract suitably qualified SMs since contracts have been proven to be one of the barriers of attracting technical skills in municipalities.

2.12. It also makes municipalities comparable to government departments where all SMs are permanent except for DGs so the right skills can be evenly distributed.

2.13. It will improve innovation and productivity since SMs will have enough time to understand and improve operations of their directorates.

2.14. When Senior Managers are on contract most of them do not even participate on Capacity Building Programmes and issues of talent management and succession planning no longer become a priority and this creates tension between these Senior Managers and those who report directly to them (level 3) because the latter will be more empowered and have innovative ideas which are not implemented by Senior Managers who use their positional authority to stop these ideas because they are not their original ideas but those of their managers who continuously develop themselves and are up to date with technology and at the end of the day its service delivery that suffers. Permanency will therefore improve capacity of Senior Managers.

2.16. There is also a lot of unnecessary job-hopping where in the fifth year of the contract Senior Managers focus on applying for the job elsewhere and that disrupts service delivery and continuity. Permanency will stop job-hopping.

3.PERMANENCY OF SENIOR MANAGERS IN LOCAL GOVERNMENT

3.1 INTERNATIONAL COMPARISONS

Countries that have best performing local governments all have only the City Manager (Accounting Officer) being on a fixed term contact. These countries are US, UK, Australia just to mention a few. What makes local government to perform better in these countries are factors such as political stability, financial stability, good and clean governance, sustainable service delivery which is delivered by highly talented and skilled workforce. These countries do not necessarily have the Legislation for the Appointment of Senior Managers exclusively from other employees because it is common course that the other employees are employed permanently by the City Manager or Chief Executive Officer. For purposes of accuracy the example of the Local Government Act of 2020 promulgated by one of the biggest cities in Australia (Victoria City Council) will be used and extracts therefrom will be attached here. It should be noted that the City Manager in Australia is called the Chief Executive Officer. Section 11(2)(d) of the Local Government Act of 2020 (Victoria-Australia) states one of the powers of Council as *...“the power to appoint the Chief Executive Officer whether on a permanent or acting basis.”* This is the only appointing authority entrusted on the Council which therefore means Council is not involved in appointing Senior Managers who report directly to the Chief Executive Officer (City Manager). Section 46(3)(b) states Responsibilities of the Accounting Officer as *“being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff.”* The use of the words *“All staffing matters”* confirms that the employment of all staff including the Senior Managers is

the responsibility of the Accounting Officer and none of the staff reporting to the Chief Executive Officer is appointed on contract.

3.2 BEST CITIES IN THE WORLD

The best cities in the world in their order are:

- London
- New York
- Paris
- Singapore (City-State)
- Tokyo

All of these Best Cities only have City Managers on a fixed term contract and the rest of senior managers are permanent. When it comes to what makes these cities tick the second highest influencer is the talent and skills of their managers and the ability to retain those skills. Singapore is ranked as number one Smart City in the World and this is attributable to high tech innovation by long serving senior managers who have been trying and experimenting these innovative solutions for years in the City and surely if this City were to chop and change its senior managers this sustained innovation would not have been realized. What is also clear about these Best Cities is the fact that all of them “Grow their Managers” which is a Talent Management Strategy to prepare managers to become good City Managers. In most of these cities City Managers are originally employed as Clerks or bus drivers or firefighters and climb through the ranks of management until they become City Managers after more than 20 or 30 years in the same municipality. There is therefore good correlation between experience, institutional memory and good performance of municipalities. In the US for example it’s proven that where City Managers spend more than 20 years as a City Manager in the same municipality only come from politically and financially stable municipalities.

3.3 SOUTH AFRICAN MUNICIPALITIES

If SA were to improve local government performance, it will certainly be prudent to follow the global examples and it is inevitable that permanency of senior managers has contributed to the best performance of municipalities. There are good examples of cases where permanency of senior managers in SA has proved to be the catalyst in attaining clean audits and the contrary is also true where municipalities with high turnover of Senior Managers have received adverse audit findings. The Clean Audit here is used because it is the most scientific yardstick to test financial, political and administrative performance of the municipality and measures clean and good governance which should not be construed to be limited to financial but overall management of the municipality. It is important to examine the best performing Provinces in SA local government which are the Western Cape followed by KwaZulu-Natal and the Northern Cape so as to see if there is any correlation between the Clean Audit or good Audit outcomes and permanency of Senior Managers.

3.3.1. WESTERN CAPE MUNICIPALITIES

The majority of the Western Cape municipalities compared to the rest of the country has the highest number of permanent senior managers and it is no surprise that the Western Cape is always leading other provinces in terms of Clean Audits. The following are the Western Cape Municipalities who have appointed their senior managers permanently and have attained consecutive Clean Audits:

3.2.1 West Coast Municipality (all Senior Managers are permanent- 9 Consecutive Clean Audits)

3.1.2. Overstrand Municipality (all Senior Managers are permanent- 7 Consecutive Clean Audits)

3.1.3. Swartland Municipality (all Senior Managers are permanent - 7 Consecutive Clean Audits)

3.1.4. Cape Winelands Municipality (all Senior Managers are permanent- 6 Consecutive Clean Audits)

3.1.5. Hessequa Municipality (all Senior Managers are permanent- 6 Consecutive Clean Audits)

3.1.6. West Coast, Bergvriev, Swartland and Garden Route (all have permanent Senior Managers and have on average of 4 Consecutive Clean Audits)

On the stark contrary Kannaland, Laingsburg, Bitou and Beaufort West which have a high turnover of Senior Managers because of contracts have been flagged by the AG and didn't achieve good audit outcomes and they have high levels of instability. This therefore proves beyond reasonable doubt that there's a very compelling and good correlation between Permanency of Senior Managers and Clean Audits.

3.3.2. KWAZULU-NATAL MUNICIPALITIES

There are municipalities that have appointed Senior Managers permanently in KZN. These are Umgungundlovu, Msunduzi, KwaDukuza, Except for Msunduzi that had external forces compromising the performance of the municipality, these municipalities have been stable politically and performed well. EThekwini Municipality has 2 of its 8 Senior Managers permanent and 1 of them is the CFO. This explains why the City was able to get a Clean Audit whilst all other cities in South Africa have Senior Managers on contracts and are struggling to attain Clean Audits including the City of Cape Town and no wonder that 3 of the Cities are or have been under administration. The case of eThekwini Municipality is an interesting one since the CFO is permanent and has been the CFO for more than 25 years and the Revenue collection has been consistently above 95% and has achieved a Clean Audit something not easy to achieve by the City given multi-billion rand budgets they are managing.

3.3.3. NORTHERN CAPE MUNICIPALITIES

Although the Northern Cape Province has a few municipalities in number it is important to use their case as well to argue the correlation between permanency of Senior Managers and audit outcomes. The Nama Khoi and Khara Hais Municipalities all have permanent Senior Managers and have all consistently achieved good Audit outcomes.

3.4. SERVICE DELIVERY

Although the emphasis on the above-mentioned municipalities has been on good and clean governance as depicted by the good audit outcomes, it is discernible without a doubt that such good governance leads to improved service delivery. The above-mentioned municipalities also have a very good record of service delivery which is premised on the fact that their Senior managers are permanent therefore there is consistency and continuity in the delivery of services. All of these municipalities have experienced less or no public protests which are always a signal of poor service delivery.

4 CONCLUSION

From the above it can be concluded that the best performing cities in the world have their senior managers permanent. Appointment of Senior Managers permanently in South Africa is not foreign it has happened in some municipalities and has proven to be more effective than appointing Senior Managers on contracts so it is not impossible it can be done. Municipalities who appoint their Senior Managers have improved performance on Service Delivery, financial sustainability, administrative stability and political stability. Permanent Senior Managers have helped their municipalities attain Clean Audits. On the contrary high turnover of Senior Managers (municipalities appointing Senior Managers on contracts) has a correlation with negative audit outcomes and instability leading to poor performance of those municipalities.

Authorised Version



Victoria

Local Government Act 2020[†]

No. 9 of 2020

[Assented to 24 March 2020]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purpose

The purpose of this Act is to give effect to section 74A(1) of the **Constitution Act 1975** which provides that local government is a distinct and essential tier of government consisting of democratically elected Councils having the functions and powers that the Parliament considers are necessary to ensure the peace, order and good government of each municipal district.

Authorised Version
Local Government Act 2020
No. 9 of 2020

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10 General power

- (1) Subject to any limitations or restrictions imposed by or under this Act or any other Act, a Council has the power to do all things necessary or convenient to be done in connection with the performance of its role.
- (2) The generality of this section is not limited by the conferring of specific powers by or under this Act or any other Act.

11 Power of delegation

- (1) A Council may by instrument of delegation delegate to—
 - (a) the members of a delegated committee; or
 - (b) the Chief Executive Officer—any power, duty or function of a Council under this Act or any other Act other than a power, duty or function specified in subsection (2).
- (2) The following are specified for the purposes of subsection (1)—
 - (a) the power of delegation;
 - (b) the power to elect a Mayor or Deputy Mayor;
 - (c) the power to grant a reasonable request for leave under section 35;
 - * (d) subject to subsection (3), the power to appoint the Chief Executive Officer, whether on a permanent or acting basis;
 - ✕ (e) the power to make any decision in relation to the employment, dismissal or removal of the Chief Executive Officer;
 - (f) the power to approve or amend the Council Plan;

- (2) Without limiting the generality of subsection (1), a Council must—
- (a) consider the support that may be required by a Mayor, Deputy Mayor or Councillor because of a disability; and
 - (b) have particular regard to the support that may be required by a Councillor who is a carer in a care relationship within the meaning of section 4 of the **Carers Recognition Act 2012**.

43 Indemnity provision

A Council must indemnify and keep indemnified each Councillor, member of a delegated committee and member of a Community Asset Committee against all actions or claims whether arising during or after their term of office in respect of anything necessarily done or reasonably done or omitted to be done in good faith—

- (a) in the performance of a duty or a function or the exercise of a power under this Act, the regulations or a local law or any other Act; or
- (b) in the reasonable belief that the act or omission was in the performance of a duty or a function or the exercise of a power under this Act, the regulations or a local law or any other Act.

Division 7—Chief Executive Officer and members of Council staff

44 The Chief Executive Officer

- ~~1~~(1) Subject to this section, a Council must appoint a natural person to be its Chief Executive Officer in accordance with its Chief Executive Officer

- (ii) provisions to be included in the contract of employment;
 - (iii) performance monitoring;
 - (iv) an annual review; and
 - (c) include any other matters prescribed by the regulations.
- (3) A Council must have regard to—
- (a) any statement of policy issued by the Government of Victoria which is in force with respect to its wages policy (or equivalent); and
 - (b) any Determination that is currently in effect under section 21 of the **Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019** in relation to remuneration bands for executives employed in public service bodies—
- in developing the Chief Executive Officer Employment and Remuneration Policy.
- (4) A Council must adopt the first Chief Executive Officer Employment and Remuneration Policy under this section within 6 months of the commencement of this section.

46 Functions of the Chief Executive Officer

- (1) A Chief Executive Officer is responsible for—
- (a) supporting the Mayor and the Councillors in the performance of their roles; and
 - (b) ensuring the effective and efficient management of the day to day operations of the Council.

- (2) Without limiting the generality of subsection (1)(a), this responsibility includes the following—
- (a) ensuring that the decisions of the Council are implemented without undue delay;
 - (b) ensuring that the Council receives timely and reliable advice about its obligations under this Act or any other Act;
 - (c) supporting the Mayor in the performance of the Mayor's role as Mayor;
 - (d) setting the agenda for Council meetings after consulting the Mayor;
 - (e) when requested by the Mayor, reporting to the Council in respect of the implementation of a Council decision;
 - (f) carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the **Workplace Injury Rehabilitation and Compensation Act 2013**.

Note

See clause 15 of Schedule 1 to the **Workplace Injury Rehabilitation and Compensation Act 2013**.

- (3) Without limiting the generality of subsection (1)(b), this responsibility includes the following—
- (a) establishing and maintaining an organisational structure for the Council;
 - (b) being responsible for all staffing matters, including appointing, directing, managing and dismissing members of Council staff;
 - (c) managing interactions between members of Council staff and Councillors and ensuring that policies, practices and protocols that support arrangements for interaction between